

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.12365 of 2020

Rama

... Petitioner

Vs.

State rep by

The Inspector of Police,
Sirkazhi Police Station,
Sirkazhi, Nagapattinam.

Ref: (Crime No.1105 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., to enlarge the petitioner on bail in the event of arrest in connection by the respondent police in Crime No.1105 of 2020 on the file of respondent police.

For Petitioner : M/s.E.Ezhil Caroline

For Respondent : Mr.K.Prabakar

Additional Public Prosecutor

ORDER

(This case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 and 379 of IPC in Crime No.1105 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that the petitioner had transported 3 units of sand through tipper lorry without obtaining proper license. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. On instruction, he would further submit that taking into consideration the present Covid pandemic situation the petitioner is prepared to donate/pay some considerable amount to any charitable organization or association without prejudice to his defence and prayed for grant of anticipatory bail.

4. The learned Additional Public Prosecutor (Crl. Side) submitted that the quantity of river sand (savudu) involved is 3 units. He would further submit that there is no previous case. However, he opposed for the grant of anticipatory bail to the petitioner.

5. In order to curb the illegal sand mining activities and taking into consideration the voluntary submission made by the petitioner offering to donate/pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioner may be directed to donate/pay a sum of Rs.45,000/- (**Rupees Forty Five Thousand only**) to "**Seva Chakkara Samajam Orphanage, Canara Bank, Vepery Branch SB.A/c.No.0943101024681, IFSC Code No.CNRB0000943**" without prejudice to his rights and contentions before the trial Court.

6. Merely, because the petitioner deposits the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

7. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions :

[a] The petitioner is directed to pay a sum of Rs.45,000/- either through RTGS/NEFT or in cash in favour of "**Seva Chakkara Samajam Orphanage, Canara Bank, Vepery Branch SB.A/c.No.0943101024681, IFSC Code No.CNRB0000943**" within fifteen (15) days from the date of receipt of a copy of this order. Thereafter, the petitioner is directed to be released on bail in the event of his arrest or on his appearance and on production of proof of deposit of the above amount and on further condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Ten thousand only) with two sureties each for a like sum to the satisfaction of the police officer who intends to arrest, failing which the petition for anticipatory bail shall stands dismissed automatically and on further condition that the petitioner shall also give a letter of undertaking before the respondent/police that the said amount has been paid in respect of particular crime number.

[b] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the respondent/police may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] **the petitioner shall report before the respondent police every Monday and Friday at 10.30 am until further orders.**

[d] the petitioner shall not tamper with evidence or obstructing investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner is released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

9. For reporting compliance, post on 15.09.2020.

-sd/-
17/08/2020

This order, on being produced, be punctually observed and carried into execution by all concerned
TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE, SIRKAZHI

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
SIRKAZHI POLICE STATION, SIRKAZHI,
NAGAPATTINAM

5 THE SEVA CHAKKARA SAMAJAM ORPHANAGE,
CANARA BANK, VEPERY BRANCH
SB.A/C.NO.0943101024681, IFSC CODE NO.CNRB0000943

+1 CC to M/S. E.EZHIL CAROLINE Advocate on payment of
necessary charges SR NO. 5947

CRL OP.12365/2020

Date :17/08/2020